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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/055,805	01/22/2002	Hugo Pimienta	02600.911	7420

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EXAMINER

MOSSER, ROBERT E

ART UNIT	PAPER NUMBER
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3714

DATE MAILED: 07/06/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/055,805	Applicant(s) PIMIENTA, HUGO	
	Examiner Robert Mosser	Art Unit 3714	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 April 2004.
 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3-18,20-35,37-50 and 52 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
 5) ☐ Claim(s) _____ is/are allowed.
 6) ☒ Claim(s) 1,3-18,20-35,37-50, 52 is/are rejected.
 7) ☐ Claim(s) _____ is/are objected to.
 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION



Responsive to the amendment filed April 6th, 2004. Claims 2, 19, 36, and 51 have been canceled and claims 1, 3-18, 20-35, 37-50, and 52 are pending.

Examiner's statements regarding old and well known subject matter and Official Notice as presented in the office action mailed October 6th, 2003 were not addressed in the reply by applicant and are now considered admitted prior art.

This action is FINAL



Claim Objections

Claims 15, 32, and 47 are objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form.

Dependent claim 15, 32 and 47 recite the same limitation of a "variable fee amount" as the parent claim 1, 18, and 35, and as such fails to further limit the parent claim.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1, 3-18, 20-35, and 37-49 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Specifically claims 1, 18, and 35 recite the limitation of charging a variable game fee amount to said winner on line 16, however dependent claims 14, 31, and 46 further describes this fee as being a fixed fee and as such contradicts the limitation of the parent claim.

Specifically claim 1 further states he use an "odd result" it is unclear what result the applicant would consider the odd result in the use of the claimed invention between an even number of player (i.e. if two players both achieved different results). Further it is unclear how the applicant intends the players to place a wager on a predicted outcome (wherein as understood if the prediction is correct they are rewarded with a win) while at the same time declaring a winner based on an odd result that may be independent of a true prediction. The issue is further exasperated on lines 14 and 15 of the claim wherein the applicant presents that the "determination" of a winner and the determination of said winner where the winner entity is repeated with separate functions while being serving proper antecedent basis between the two lines. As best understood the applicant intends the lesser-chosen prediction to be the winning result and then declare the players whom choose the lesser-chosen prediction to be declared the winners.

Claim 18 contain the same issues as recited above with regard to claim 1 including the determination of a winner an odd result as set forth above.

Claim 35 contains the same issue as presented above with regard to claim 1 including the determination of a winner.

Remaining claims not directly addressed herein are incorporated through dependency.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1, 3-4, 7, 9, 18, 20-21, 24, 26, 35, 37, 39 and 41 are rejected under 35 U.S.C. 102(e) as being anticipated by **Cummings** et al (6,183,361).

Regarding claims 1-4, 7, 9, 18-21, 24, 26, 35-37, 39 and 41, Cummings teaches a computerized gaming apparatus/method that comprises a processor; a memory coupled to the processor (Fig. 3); a gaming engine configured to interface with a gaming interface via an interconnection fabric, said gaming engine configured to obtain a wager from a players; obtain a predicted outcome from the players; simulate a random chance event by executing a random number generator when said gaming engine has obtained

said wager and said predicted outcome; obtain an actual simulated outcome of said random chance event using output generated by said random number generator; inform said players of a win if said predicted outcome matches said actual outcome (Fig. 1; Fig. 4; col. 6, lines 11-67 through col. 7, lines 1-4).

Newly amended subject matter directed to a plurality of players rather than a player is demonstrated in the abstract and figure 1 of Cummings.

Newly amended subject matter directed to the random number generator execution on a gaming engine separate from the interface is considered encompassed in the random number generator located on the server as shown in figure 3 of Cummings.

Newly amended subject matter directed to the selection of a winner based on the actual event outcome and the charging of a variable game fee or the establishment 's share as equivalently described is presented in at least the abstract of Cummings.

Newly amended subject matter directed to the "odd result" determining the winner has been interpreted as referring to the winner of the Cummings as the applicant has not set forth any claim structure that would presently support the present definition of an "odd result" as set forth in the specification.

Newly amended subject matter including the charging of a game fee amount is taught in Cummings as a house share (Abstract)

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 5-6, 8, 10-11, 13-17, 22-23, 25, 27-28, 30-34, 38, 40, 42-43 and 45-49 are rejected under 35 U.S.C. 103(a) as being unpatentable over ***Cummings*** et al.

Regarding claims 5 and 22, Cummings teaches all the limitations of the claims. Cummings is silent regarding the feature of the wager comprising credits earned by the player for performing an action. The examiner has previously taken notice that it is well known in the art in lottery/slot gaming to allow players to wager previously won credits. It would have been obvious to a person of ordinary skill in the art at the time of the invention to include this feature in Cummings to provide an additional incentive for the players to continue game play; thereby, increasing the profits for the gaming establishment.

Regarding claims 6, 23 and 38, Cummings teaches all the limitations of the claims as discussed above. While Cummings teaches the feature of a wager, Cummings lacks teaching the use of fun money for the wager. As previously stated it is well known in the gaming art to use play money (in such games as Monopoly™, Operation™, etc.). It would have been obvious to a person of ordinary skill in the art at the time of the invention to utilize play money instead of actual money in Cummings to

increase the excitement and decrease disappointment for players that are new to the game.

Regarding claims 8, 25 and 40, Cummings teaches all the limitations of the claims as discussed above. Cummings lacks the explicit disclosure of deactivating the play button when the wager is above a certain threshold. Cummings is functionally capable of achieving this function. It is merely a matter of programming the gaming software to start/stop game play when a certain wager is received. It would have been obvious to a person of ordinary skill in the art at the time of the invention to incorporate this feature into Cummings in order to prevent players from wagering and losing excessive amounts of money. This would increase player satisfaction after playing the game.

Regarding claims 10, 27 and 42, Cummings teaches all the limitations of the claims as discussed above. Cummings is silent regarding the explicit teaching of an animation window for displaying a visual depiction of the random event simulated by the random number generator. The examiner has previously taken notice that it is well known in the art of gaming devices to display various animations in order to attract the player's attention. Therefore, for this reason it would have been obvious to a person of ordinary skill in the art at the time of the invention to include this feature in Cummings.

Regarding claims 11, 17, 28, 34, 43 and 49, Cummings teaches all the limitations of the claims as discussed above. Cummings is silent regarding the random chance event being binary. However, the examiner has previously taken notice that this is a well known feature in random chance card games, whereby the player wagers on

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whether the outcome will be hi or lo. It would have been obvious to a person of ordinary skill in the art at the time of the invention to incorporate this binary feature in Cummings to increase the odds of the players choosing a winning outcome.

Regarding claims 13-16, 30-33 and 45-48, Cummings teaches all the limitations of the claims as discussed above. Cummings is silent regarding the feature of deducting a game fee. The examiner has previously taken notice that it is well known in the art of network gaming to charge and deduct a game fee (particularly in network tournament type games). It would have been obvious to a person of ordinary skill in the art at the time of the invention to incorporate the feature of deducting a game fee in Cummings to increase the profits of the gaming establishment.

Claims 12, 29, 44 and 50, and 52 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Cummings** et al in view of **Gutknecht** (5,154,420).

Regarding claims 12, 29, 44 and 50-52, Cummings teaches all the limitations of the claims as discussed above. Cummings lacks the disclosure of the random event being simulated coin flips. In an analogous random chance game, Gutknecht teaches this feature (abstract; Fig. 1, #52). It would have been obvious to a person of ordinary skill in the art at the time of the invention to incorporate this feature, as taught by Gutknecht, in Cummings to increase the familiarity of the game for players; thereby, increasing player participation.

Response to Remarks/Arguments

The subject of the amendments has been addressed within the respective rejections above. The applicant has challenged the use of the system of Cummings with multiple players. In response the examiner directs the applicant to figures 1 and 4 of the Cummings patent cited previous and herein.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert Mosser whose telephone number is (703)-305-4253. The examiner can normally be reached on 8:30-4:30 Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Derris H Banks can be reached on 703-308-1745. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

REM



JESSICA HARRISON
PRIMARY EXAMINER